Y 1.1/5:97-425
1008-D
ORIGINAL

Calendar No. 607

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-425

COMPLETED

PROVIDING A PERMANENT BOUNDARY ON THE ISLE AU HAUT PORTION OF ACADIA NATIONAL PARK, MAINE

MAY 26 (legislative day, MAY 25), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1777]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1777) relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 2, lines 12 and 13, strike out "comprising approximately three thousand seven hundred and eighty-two acres".

2. On page 2, after the period in line 24, insert the following:

> The Secretary is authorized and directed to acquire by donation, purchase with donated or appropriated funds, or exchange the tract known as the Hamilton lot in Duck Harbor.

3. On page 2, line 24, after the word "than", delete "ninety days" and insert in lieu thereof, "one hundred and eighty days".

4. On page 3, line 24, insert "(a)" after "SEC. 4.", and on page 4, line 13, strike all after the period and insert in lieu thereof the following:

> SEC. 4. (b) In furtherance of the purpose of subsection (a) of this section, the Secretary shall prepare a report establishing carrying capacities for the Isle au Haut portion of Acadia National Park. The report shall be prepared and the carrying capacities established with public participation and in consultation with the town of Isle au Haut and other interested parties.
>
> (c) The Secretary shall transmit the report to the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Rep-

89-010 O

resentatives no later than 6 months from the date of enactment of this Act. The Secretary shall begin implementing the carrying capacities contained in the report 60 days after the report has been transmitted to the Committees.

(d) Carrying capacities established pursuant to this section shall be reviewed, and if necessary revised, every five years. Any revision in such carrying capacity shall be made in accordance with the procedures set forth in subsections (b) and (c) of this section.

(e) Until such time as a carrying capacity limitation is established and implemented pursuant to subsections (b) and (c) of this section, the Secretary shall take such temporary measures as are necessary to assure that visitation does not exceed the average annual visitation for the period 1979 to 1981.

5. On page 4, after line 15, insert a new section as follows:

SEC. 5. There are hereby authorized to be appropriated after October 1, 1982, such sums as may be necessary to carry out the provisions of this Act.

PURPOSE OF THE MEASURE

S. 1777, as reported, would authorize the Secretary of the Interior to establish a permanent boundary for the Isle au Haut portion of Acadia National Park in Maine, by acquiring certain lands and by conveying other lands with covenants to the Town of Isle au Haut. The Secretary is also directed to establish carrying capacities for that portion of Acadia National Park.

BACKGROUND AND NEED

Acadia National Park was established in 1929. The legislation authorized the National Park Service to accept donated lands on Isle au Haut in Knox County, Maine. Donations of land have been made since 1943. The Island is sparsely populated and is solely accessible by mailboat or private craft. Isle au Haut is dominated by the mountain of the same name rising 543 feet above sea level. About 70 permanent residents live on the Island.

In 1972, the National Park Service proposed a master plan to consolidate acreage in the southern part of the island and eventually seek a permanent boundary. Negotiations were started with the town residents. In 1977, a Record of Decision for the General Management of the Isle au Haut unit of Acadia National Park was signed. The selected alternative is basically encompassed in the bill with some changes. The town of Isle au Haut has been in extensive negotiations with the National Park Service and conservation groups. The bill is a result of those negotiations and the selected alternative.

Section 1 of S. 1777 makes three Congressional findings dealing with resources identification, protection, and limiting entry. Section 2 establishes a permanent boundary. Section 3 would convey three parcels of land to the Town with covenants to "maintain forever in their natural condition" . . . lands above 300 feet. Section 3(b) would authorize the Secretary of the Interior to accept limited enforcement easements on lands outside the boundaries set in Section 2. Section 4 sets carrying capacities for the Island and limits visitation and development.

LEGISLATIVE HISTORY

S. 1777 was introduced by Senators Mitchell and Cohen on October 27, 1981. A hearing before the Public Lands and Reserved Water Subcommittee was held on April 14, 1982. Testimony was received from the Administration supporting the enactment of S. 1777 if amended. At a business session on May 13, 1982, the Energy and Natural Resources Committee ordered S. 1777 favorably reported with amendments.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 13, 1982, by a unanimous vote of a quorum present recommended that the Senate pass S. 1777 if amended, as described herein.

The rollcall vote on reporting the measure was 18 yeas and 0 nays as follows:

YEAS—18	NAYS—0
McClure	
Hatfield	
Weicker [1]	
Domenici [1]	
Wallop	
Warner	
Humphrey	
Murkowski [1]	
Nickles	
East [1]	
Heinz [1]	
Jackson [1]	
Johnston	
Bumpers [1]	
Ford	
Matsunaga	
Melcher	
Bradley	

COMMITTEE AMENDMENTS

Amendment No. 1 deletes language describing the approximate acreage within the new boundary. The approximate acreage referred to in S. 1777, as introduced, is 3,782 acres; this is a larger figure than the records of the Park Service indicate. Their figures show approximately 2,968 acres. Since the official map referred to in S. 1777 controls the acreage to be included within the park and there is no disagreement on location of the boundary line, the reference to an approximate acreage would be misleading until an actual survey is completed. Accordingly, the amendment deletes the descriptive reference to acreage.

Amendment No. 2 authorizes acquisition of the one-quarter acre Hamilton lot by purchase as well as donation or exchange. This tract would be the only one to which acquisition authority by purchase including condemnation if necessary, would apply. The multiple owners of Hamilton lot are not all known or identified. Ownership is uncer-

[1] Indicates voted by proxy.

tain. The National Park Service would use eminent domain to clear title to this lot.

Amendment No. 3 provides the Secretary and the Town of Isle au Haut a reasonable period of time to agree on the covenents described in Section 3(a) on certain lands to be conveyed to the Town of Isle au Haut by the U.S. The period is extended from 90 to 180 days. The Committee recognizes that S. 1777 directs the Secretary to convey certain lands which lie outside the boundary established by section 2 to the Town of Isle au Haut. However, the Committee directs that, if an agreement between the Town and Park Service is not reached prior to the 180 day period, those lands to be conveyed shall be managed as park lands until agreement is reached.

Amendment No. 4 requires the Secretary to determine and implement carrying capacities on the Isle au Haut portion of Acadia National Park through a public process and report to the authorizing Committees. The amendment would provide for interim carrying capacities and an annual limitation until the required report is prepared and a carrying capacity established. The Town of Isle au Haut is basically a small fishing community. The town's people wish to maintain the present character and nature of the town. With unlimited visitation to Isle au Haut, the committee felt that undue pressures would be placed on the community, and changes in the economy would occur resulting in occupational changes and development. The amendment could limit visitation in an attempt to preserve the current way of life in the community.

Amendment No. 5 authoizes the appropriations necessary for the Secretary to acquire by purchase the tract known as the Hamilton lot in Duck Harbor on Isle au Haut.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 17, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1777, a bill relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine, as ordered reported by the Senate Committee on Energy and Natural Resources, May 13, 1982.

The bill authorizes and directs the Secretary of the Interior to acquire by donation, purchase with donated, or appropriated funds, or exchange the tract known as the Hamilton Lot in Duck Harbor. Based on information provided by the National Park Service, it is estimated that the administrative and acquisition costs to the federal government will be approximately $50,000, assuming implementation in 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

STANLEY L. GREIGG,
(For Alice M. Rivlin, Director.)

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying-out S. 1777.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. S. 1777, as reported, would establish a permanent boundary for the Isle au Haut portion of Acadia National Park by acquiring certain lands and conveying certain other lands to the town of Isle au Haut in Acadia National Park in Maine. S. 1777 would direct the Secretary of the Interior to establish carrying capacities in that portion of the Park.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 1777.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communication received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 1777 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 10, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views of this Department on S. 1777, a bill "Relating to the establishment of a permanent boundary for that portion of the Acadia National Park which lies within the town of Isle au Haut, Maine."

Subject to several modifications, we support passage of this legislation.

The bill is intended to establish a permanent park boundary for the Isle au Haut portion of Acadia National Park in Knox County, Maine. We support this intent and believe a successful resolution of the boundary issue at Isle au Haut will help encourage the resolution of similar issues in other portions of the park.

Under existing law, the Secretary of the Interior is authorized to accept donations of lands, easements and buildings within that portion of Knox County in which Isle au Haut is located; acquisition through purchase is not authorized. Today, the Isle au Haut portion of the park contains many highly significant properties. However, all the park lands are not consolidated into a single management unit. Some important properties—often partially or completely surrounded by park holdings—remain in private ownership. At the same time, large parcels on noncontiguous park land lie to the north of the bulk and the park holdings at Isle au Haut.

In addition, several private landowners have complained that park visitors inadvertently trespass on these private lands. Others are concerned that under current law, park expansion through donation of easements and fee interests will be unrestrained in the future.

S. 1777 attempts to resolve these and related problems. Specifically, it would:

Establish a precise legislative boundary for the park within the town, by reference to an October 1981 boundary map;

Authorize acquisition by donation or exchange of the lands and interest therein depicted on the boundary map;

Authorize the Secretary to convey to the town within 90 days of the bill's enactment into law all lands and interests of the United States which are outside the boundary but within the town of Isle au Haut;

Authorize the Secretary to accept donations of easements outside the boundary if such easements are donated to a private conservation trust, on which the park superintendent would serve as a trustee; and

Impose certain management restrictions on park lands within the town.

For the most part, we agree with this proposed solution. We believe it is basically consistent with the principles of this Department's land protection policy, which is currently being developed. However, we have several important reservations.

First, we believe the bill should be amended to authorize the condemnation and purchase of a quarter-acre tract whose ownership is uncertain. To clear title, we anticipate this parcel will have to be acquired through eminent domain proceedings, at an expected price of less than $50,000.

Ordinarily, we would be opposed to additional authorizations for acquisitions until we have determined our overall policy on clearing up the acquisition backlog under the Land and Water Conservation Fund. However, in this instance, since the acquisition is very small and we are assured that it can be accomplished for less than $50,000 we would have no objection to including it in the bill. If on appraisal we find the property cannot be acquired for $50,000 or less, the property would not be acquired.

Second, the Secretary is required to convey the lands within 90 days, but the conveyance is subject to mutually agreeable covenants. The bill is unclear as to which provision is controlling: the deadline for conveyance, or mutual agreement on covenants. We would prefer no deadline for conveyance but would not object if conveyance is required once the Department has acquired the bulk of the 302 acres of nonfederal lands—enough in the opinion of the Secertary to constitute an administrable unit—within the new boundary.

Third, section 4 of the bill raises certain administrative management concepts and philosophies to statutory prohibitions and directions. This section is ambiguous, vague and at times a restatement of existing Park Service responsibilities. It would require that management not interfere with a "traditional resource-based economy," that visitation be "strictly limited," and that the Secretary establish carrying capacities at or below the average annual visitation during 1979–81 (3,156 people). We would suggest that these provisions are more appropriately addressed in the general management plan and recommend that they be deleted from the bill.

Fourth, under existing law, we have authority to accept easements throughout the town. The bill would change this by confining the Parks Service's authority to accept property to areas within the new boundary. At the same time, however, it authorizes the NPS to accept easements outside the new boundary if the NPS acts as a co-holder

with the total land trust for enforcement purposes. We recommend that this provision also be deleted as unnecessary.

It appears to the Department that, if landowners wish to encumber lands which they own outside the park, they can work with the State or other public and private entities to accomplish their purpose. The Tax Treatment Extension Act of 1980 provides gift tax incentives for donations of this kind, and these donations further promote established government conservation policies.

On the other hand, we do support the bill's elimination of current United States authority to receive, hold and enforce easements, and its concept of a private land trust that would carry out these functions. The growth of the private land trust concept and its potential for protecting areas of national importance—including areas adjacent to our national parks—is of real interest to us. We applaud the possibility of using this approach at Isle au Haut.

In this regard, we would have no objection to the park superintendent serving as a member of the trust. However, we note that his or her responsibilities as a trustee are distinct from his or her responsibilities as a superintendent.

The National Park Service remains concerned that many of the existing private land trusts—with several notable exceptions—are not always effective. If this concept is to be included in the Isle au Haut plan, or in other park plans, we would like to continue working with the Committee to improve the trust concept and develop purposes and functions that are appropriate to each case. The Department recognizes and shares the concerns of the citizens of Isle au Haut, as expressed in section 4 of the bill and at the April 14, 1982, hearings. We would not object to a requirement that the National Park Service and the town seek agreement on approaches to visitor use of the park and report the results of these discussions to the appropriate committees of the Congress within one year after enactment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD PAUL HODEL,
Undersecretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 1777, as ordered reported.

○